

AG Contract No. KR02- 1762TRN
ADOT ECS File: JPA 02-102
Project: Economic Strength Program (ESP)
TRACS No.: G 1051 10C
Section: Reconstruct .33 miles of Florentine Rd.
(Windsong Drive to Lake Valley Road)

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF PRESCOTT VALLEY

THIS AGREEMENT is entered into 03 January, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF PRESCOTT VALLEY, acting by and through its TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 11-201 and 28-7282 et seq. to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The Town has requested Economic Strength Project (ESP) funds in the amount of \$162,500.00; and the Commerce and Economic Development Commission have recommended the approval of such funds for the Town, and the Transportation Board has approved the funding, for the reconstruction of improvements to .33 miles of Florentine Rd. from Windsong Dr. to Lake Valley Rd. to provide improved access, and aid in the retention and development of local business, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO 25720
Filed with the Secretary of State
Date Filed: 01/03/2003

Betsy Bayless
Secretary of State

By William D. Greenwald

II. SCOPE OF WORK

1. The Town will:

a. Insure the additional commitment of 82.71% of the total estimated Project cost, or \$777,500.00, whichever is more, from the Town or other sources (not including ESP funds) to the Project. Accomplish construction of the Project by public bidding, in strict compliance with State procurement laws, rules and regulations. Upon completion, approve and accept the Project on behalf of the Town and provide maintenance.

b. No more often than monthly, invoice the State for ESP funds (Arizona Department of Commerce, ATTN: ESP Program Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85012), in an amount not to exceed \$162,500.00.

c. Provide the State a copy of the executed Project contract(s), and draw down and expend the State ESP funds no later than twelve (12) months after the effective date of this agreement. Provide the State detailed written reports of all ESP fund expenditures, supported by invoices, receipts or other suitable and appropriate documentation, and a final accounting report no later than thirty (30) days after ESP funds are fully expended.

d. Reimburse the State any funds received from the State under this agreement, which are not specifically and directly expended in compliance with the ESP grant application, which is attached hereto and made a part hereof, and are subsequently disallowed by the State.

e. Provide the State (Arizona Department of Commerce, ATTN: ESP Program Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85012) with quarterly Project status reports, and one year after completion of the Project, a written Economic Impact Report detailing the direct and indirect impact of the Project, to include jobs created, jobs retained and related data.

2. The State will:

Within thirty (30) days after receipt and approval of the ESP contract(s) and subsequent monthly progress payment invoices, reimburse the Town for work completed on the Project funds in an amount not to exceed \$162,500.00.

III. MISCELLANEOUS PROVISIONS

1. The only interest of the State in the Project is to convey economic strength pass through funds for the use and benefit of the Town by reason of state law under which funds for the Project are authorized to be expended.

2. The Town agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance by the State of any of the provisions of this agreement. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys fees.

3. The total amount of ESP funds expended under this agreement shall not exceed 17.29% of the total Project cost. Should the Project not be completed, be partially completed, or be completed at a lower cost than the advanced amount, or for any other reason should any of these ESP funds not be expended, a proportionate amount of the funds provided under this agreement shall be reimbursed to the State.

4 This agreement shall remain in force and effect until completion of said Project, reimbursement and subsequent reports; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental agency, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party. Further, this agreement may be terminated and the ESP grant cancelled by the State if the Town, in the opinion of and by action of the Transportation Board, fails to pursue due diligence on the Project or in the performance of any of the terms of this agreement.

5 This agreement shall become effective upon filing with the Secretary of State.

6 This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 as regards conflicts of interest on behalf of State employees.

7 The provisions of Arizona Revised Statutes Section 35-214 pertaining to 5-year records retention by the Town and audit by the State are applicable to this contract.

8 In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

9 All notices or demands upon any party to this agreement, except as otherwise specified herein, shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

Town of Prescott Valley
Town Manager
7501 E. Civic Circle
Prescott Valley, AZ 86314
FAX (928) 759-3125

10 Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF PRESCOTT VALLEY


STATE OF ARIZONA

Department of Transportation

By 
RICHARD KILLINGSWORTH
Mayor

By 
DALE BUSKIRK, Acting Division Director
Transportation Planning Division

ATTEST:

By 
DIANA ROBERTS
Town Clerk

JPA 02-102

APPROVAL OF THE TOWN OF PRESCOTT VALLEY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF PRESCOTT VALLEY and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 22nd day of November, 2002.



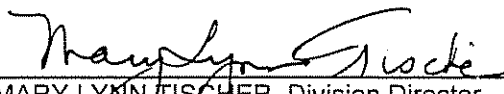
Attorney

JPA 02-102

RESOLUTION

BE IT RESOLVED on this 5th day of August, 2002, that I, the undersigned VICTOR M. MENDEZ, Director of the DEPARTMENT OF TRANSPORTATION (ADOT), have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the TRANSPORTATION PLANNING DIVISION, to enter into an agreement with the Town of Prescott Valley. The Town has requested Economic Strength Project (ESP) funds in the amount of \$162,500.00; and the Commerce and Economic Development Commission have recommended the approval of such funds for the Town, and the Transportation Board has approved the funding, for the reconstruction of improvements to .33 miles of Florentine Rd. from Windsong Dr. to Lake Valley Rd. to provide improved access, and aid in the retention and development of local business, for the benefit and safety of the traveling public.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Transportation Planning Division for approval and execution.



MARY LYNN TISCHER, Division Director
Transportation Planning Division
for VICTOR M. MENDEZ, Director, ADOT

RESOLUTION NO. 1142

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE TOWN OF PRESCOTT VALLEY TO ACCEPT ECONOMIC STRENGTH PROJECT GRANT FUNDS IN THE AMOUNT OF \$162,500.00; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, The Town has requested Economic Strength Project (ESP) grant funds in the amount of \$162,500.00 for the reconstruction of improvements to .33 miles of Florentine Rd. from Windsong Dr. to Lake Valley Rd. (Project) to provide improved access, and aid in the retention and development of local business hereinafter referred to as the Project; and

WHEREAS, the Commerce and Economic Development Commission has recommended the approval of such funds; and

WHEREAS, the Transportation Board has also approved the funding; and

WHEREAS, the State has prepared and approved an agreement for this project referencing AG Contract No. KR02-1762TRN; ADOT ECS File: JPA 02-102; Project: Economic Strength Program (ESP); TRACS No.: G 1051 10C; and Section: Reconstruct .33 miles of Florentine Rd. (Windsong Drive to Lake Valley Road);

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF PRESCOTT VALLEY, ARIZONA, THAT –

1. The Mayor (or, in his absence, the Vice Mayor) is hereby authorized to sign an Intergovernmental Agreement with the State of Arizona for ESP grant funds for the Project.

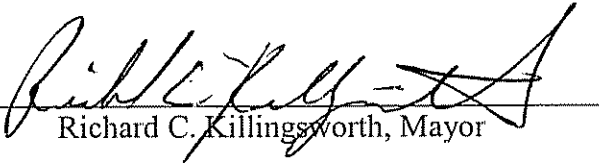
2. It is hereby certified that this Intergovernmental Agreement is consistent and compatible with all adopted plans and programs of the Town for economic development.

3. It is hereby agreed that the Town will comply with all appropriate procedures, guidelines, and requirements stated in the Intergovernmental Agreement.

4. It is hereby certified that the Town will comply with all appropriate state and federal regulations, policies, guidelines, and requirements as they relate to the receipt and expenditure of the grant funds.

5. Anthony J. Mortillaro, Town Manager, and Larry Tarkowski, Public Works Director, are hereby appointed as agents of the Town to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, amendments, billing statements, and so on which may be necessary for the completion of the aforementioned Project.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 21st day of November, 2002.


Richard C. Killingsworth, Mayor

ATTEST:



Diana Roberts, Town Clerk

APPROVED AS TO FORM:


Ivan Legler, Town Attorney

I, Diana Roberts, being the duly appointed and qualified Clerk of the Town of Prescott Valley, certify that the foregoing Resolution No. xxxx is a true, correct and accurate copy of Resolution No. xxxx passed and adopted at a regular meeting of the Town Council held on November 21, 2002 at which a quorum was present and voted in favor of said Resolution.

Given under my hand and seal this 2nd day of November, 2002.


Diana Roberts, Town Clerk



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION

1275 WEST WASHINGTON STREET, PHOENIX, AZ. 85007-2926

TRN Main: (602) 542-1680
Direct: (602) 542-8855
Fax: (602) 542-3646

JANET NAPOLITANO
ATTORNEY GENERAL

MAIN PHONE : (602) 542-1680
FACSIMILE : (602) 542-3646

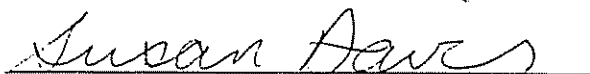
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-1762TRN (JPA 02-102), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED December 23, 2002.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/srs

Att.